

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

PHOENIX LICENSING, L.L.C., et al.

v.

CENTURYLINK, INC., et al.

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Case No. 2:14-cv-965-JRG-RSP
(lead case)

**ORDER ADOPTING MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION
DENYING DEFENDANTS’ MOTION TO DISMISS**


Before the Court is Defendants’ Objections to the Magistrate Judge’s Report and Recommendation Denying Defendants’ Motion to Dismiss Asserted Patents Under 35 U.S.C. § 101 (“Defendants’ Objections”). Dkt. No. 188.

In the Report and Recommendation, the Magistrate Judge correctly held that a determination of patent validity under § 101 “requires a legal analysis that can—and often does—‘contain underlying factual issues.’” Dkt. No. 184 at 3 (citing *Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1340–41 (Fed. Cir. 2013)). Accordingly, the Magistrate Judge correctly held that the nature of the Asserted Patents and the parties’ unresolved claim construction disputes would render an analysis under *Mayo* premature and improper at the pleading stage. *Id.* at 3-5 (citing *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 132 S. Ct. 1289, 1293–94 (2012)).

For the foregoing reasons, the Court agrees with the conclusions of the Report and Recommendation, and the Court finds the Magistrate Judge’s rulings neither “clearly erroneous [n]or contrary to law.” 28 U.S.C. § 636(b)(1)(A); FED.R.CIV.P. 72(a). Accordingly, Defendants’ Objections are **OVERRULED** and the Magistrate Judge’s Report and Recommendation Denying-in-Part Defendants’ Motion to Dismiss (Dkt. No. 184) is hereby **ADOPTED**.

So Ordered and Signed on this

Sep 29, 2015



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE